

MINUTES
Ferndale City Council Meeting
Held Tuesday, January 3, 2006
City Hall Annex – Council Chambers
7 p.m.

STAFF:

City Administrator Greg Young	City Clerk Linda Knutson
City Treasurer Mark Peterson	Planning Director Tom Black
Public Works Director Bob Cecile	Police Chief Michael Knapp
City Attorney Dick Langabeer	

Mayor Jerry Landcastle Presiding

CALL TO ORDER

Mayor Landcastle called the meeting of the Ferndale City Council to order at 7:00 p.m.

CONSENT AGENDA

The following consent agenda was moved for approval by Councilmember Wilson and seconded by Councilmember Oliver:

1. Approval of Minutes of 12/19/05 Council Meeting
2. Approval of Claims Run Of 01-03-06; Checks #44644 - #44757-44887; Total Claims: \$118,724.19

Motion passed unanimously.

PUBLIC COMMENT

Lloyd Zimmerman, Ferndale, stated that he would be presenting to the Recreation and Finance Committee information pertaining to a Community Center bond issue.

OATH OF OFFICE

City Clerk Linda Knutson administered the Oath of Office to Councilmembers Gary Jensen and Keith Olson.

ROLL CALL:

Councilmember Steve Oliver	Councilmember Mel Hansen
Councilmember Mike Reilly	Councilmember Marianne Elgart
Councilmember Gary Jensen	Councilmember Keith Olson

ABSENT:

Councilmember Ken Downey (excused)

PRESENTATION TO OUTGOING COUNCILMEMBERS

Mayor Jerry Landcastle presented outgoing Councilmembers Susan Cole, Carol Brumet and Ron Wilson with plaques of appreciation for their years of service to the citizens of Ferndale.

COLLECTIVE BARGAINING CONTRACTS – TEAMSTERS

It was moved by Councilmember Oliver and seconded by Councilmember Elgart to ratify the bargaining unit agreements with the Public Works Unit and the Non-Commissioned Support Staff of the City of Ferndale Police Department, Municipal Court, Probation, Public Works, Planning and City Clerk's Departments. Motion passed unanimously.

PUBLIC HEARING – LATECOMERS AGREEMENTS – ORDINANCES #1383 AND #1384

Staff Report

Public Works Director Bob Cecile reviewed two Latecomers Agreements affecting property owners in the Rural Sunset Improvement area. One agreement covers recoverable costs of the street and stormwater improvements, and the other the cost of sewer and water main improvements. Because the City did receive federal grant funds for this project, only about 20 percent of project costs are proposed to be recovered. Also, not all of the parcels along Rural and Sunset have been obligated under the agreements, because some property owners entered into participation agreements with the City prior to the start of construction.

Public Hearing Opened

Janice Schuch, Whatcom County, had some general questions regarding latecomer agreements.

Public Hearing Closed

It was moved by Councilmember Oliver and seconded by Councilmember Jensen to approve Latecomer Ordinance #1383 addressing recovery costs for the street and stormwater improvements of the Rural-Sunset Project.

Council Discussion

The Council's discussion focused mainly on the proposed interest rate of ten percent. Some felt that it was too high to be justified.

A Friendly Amendment was requested by Councilmember Reilly changing the proposed interest rate from ten percent to seven percent fixed, throughout the life of the agreement. Amendment accepted by maker and second. Main motion, as amended, passed unanimously.

It was moved by Councilmember Oliver and seconded by Councilmember Elgart to approve Latecomer Ordinance #1384 addressing recovery costs for the sewer and water improvements of the Rural-Sunset Project, with a seven percent fixed interest rate throughout the life of the agreement. Motion passed unanimously.

WHISKEY CREEK PRELIMINARY PLAT

Planning Director Black reviewed that the applicant proposes a Preliminary Plat to subdivide approximately 17.5 acres of land located in the RM 1.5 (Residential Multi-Family) zone into 55 single-family lots and two open space tracts. The applicant proposes to develop the plat in 2 Phases to begin generally in summer of 2006 and 2007. The project includes the construction of interior streets, two wetponds, and open space areas where wetland mitigation will occur. This area was recently rezoned from Highway Commercial.

The project was heard by the Hearings Examiner during a public hearing on December 6, 2005. *The Hearings Examiner recommended approval of the preliminary plat.* The Hearings Examiner's recommendation is subject to the staff-recommended conditions of approval.

The Council had questions regarding the requirement for a stub street to be installed in the northerly section of the plat's access street. Staff explained that the Fire Department had concerns for future development in the general area, and for the creation of more than just the single ingress/egress for this plat.

It was moved by Councilmember Elgart and seconded by Councilmember Oliver to approve the Whiskey Creek Preliminary Plat, subject to all Conditions of Approval, Findings of Fact, and Conclusions of Law as recommended by the Hearings Examiner's official report. Motion passed unanimously.

REVIEW OF ADOPTED FINANCIAL POLICIES

City Administrator Greg Young and Treasurer Mark Peterson reviewed that the City of Ferndale Financial Management Policies had been in place for several months. Treasurer Peterson has recommended some revisions to the Investment Chapter to allow for increased flexibility. The proposed changes will go to the Recreation and Finance Committee, then to Council for consideration at the first meeting in February.

REVIEW OF LETTER FROM ATTORNEY D. BRICKLIN REGARDING PUD MORATORIUM

Mayor Landcastle stated that this item was added to the agenda after being submitted by Councilmember Jensen the prior Friday afternoon. Councilmember Jensen received a letter from Seattle Attorney David Bricklin outlining several reasons why an emergency moratorium should be adopted on the City's Planned Unit Development ordinance. Generally the object was to halt the application process of the proposed Pioneer Plaza until the City could revise its regulations to what Bricklin termed "better protect community values". Bricklin also urged a moratorium be put in place before the project becomes vested.

It was moved by Councilmember Hansen and seconded by Councilmember Reilly to forward the Bricklin letter to the Planning and Judicial Committee and the City Attorney for review and comment.

Council Discussion

The Council agreed to allow public comment regarding this item.

Barbara Brenner, Whatcom County, stated that the Pioneer Plaza project will probably proceed in one form or another, and a moratorium will simply "stop the clock" so the PUD ordinance can be updated.

Janice Schuch, Whatcom County, stated that the PUD ordinance "has no teeth" and it is up to the individual property owner to sue a developer or the City if there are deficiencies. She felt the project should only proceed with strong safeguards.

John Flarry, Whatcom County, stated that the Bricklin letter outlined the many flaws in the current PUD, and urged a moratorium be instituted immediately.

Carl Weimer, Whatcom County, said that many residents are worried about this project, and especially the associated traffic impacts. He told the Council to "make sure your PUD ducks are in a row".

Further Council Discussion

The Council had several questions of staff, centering on traffic studies, EIS, vesting, and other issues outlined in the letter. Planning Director Black reviewed how the PUD and EIS review process works, what is involved in making determinations of significance or insignificance, and how mitigation is addressed. After extensive debate, several Councilmembers leaned towards a moratorium, while others felt that attorney review and Committee study was probably sufficient. Attorney Richard Langabeer noted that the City's PUD ordinance was well written, and its Critical Areas Ordinance had some of the most restrictive language in the state. Ultimately, a short moratorium was discussed, allowing enough time for legal review and comment on the Bricklin letter, review by Committee, and possible suggestions to revisions of the PUD ordinance.

Amendment to Main Motion

It was moved by Councilmember Hansen and seconded by Councilmember Oliver to impose a 30-day emergency moratorium on the Commercial element of the Planned Unit Development Ordinance, while legal and staff review is accomplished. Amendment to Main Motion passed unanimously.

Vote on Main Motion as Amended

Main motion as amended passed unanimously.

It was noted by staff that a thirty day moratorium would expire by a few days prior to the first Council meeting in February.

Motion to extend moratorium

It was moved by Councilmember Hansen and seconded by Councilmember Reilly to extend the moratorium to coincide with the February 6th Council meeting. Motion passed unanimously.

APPOINTMENTS: MAYOR PRO-TEM, STANDING COMMITTEES, ASSIGNMENTS

Councilmember Steve Oliver was appointed Mayor Pro-Tem for the next two years by majority vote.

It was moved by Councilmember Hansen and seconded by Councilmember Reilly to appoint the following:

Streets/Utility Committee

2006: Councilmembers Reilly, Hansen, Oliver

Recreation and Finance Committee

2006: Councilmembers Oliver, Jensen, Downey

Planning and Judicial Committee

2006: Councilmembers Elgart, Jensen, Downey

Equipment and Facilities Committee

2006: Councilmembers Elgart, Hansen, Olson

Bellingham International Airport Advisory Committee

2006: Councilmember Mel Hansen

Emergency Management Council

2006: Councilmember Marianne Elgart

Ferndale School Board Liaison

2006: Councilmember Mike Reilly

Solid Waste Exec Committee - Solid Waste Advisory Board

2006: Mayor Jerry Landcastle

What-Comm Operations Advisory Committee

2006: Police Chief Michael Knapp and Councilmember Marianne Elgart

Whatcom County Council of Governments

2006: Councilmember Mike Reilly

Whatcom Transportation Authority Governing Board

2006: Councilmember Mel Hansen

Whatcom County Fire District #7 Council Liaison

2006: Councilmember Steve Oliver

Lodging Tax Advisory Committee

2006: Councilmember Gary Jensen

Chamber of Commerce Council Liaison
2006: Councilmember Mike Reilly

Heritage Society Council Liaison
2006: Councilmember Marianne Elgart

Motion passed unanimously.

MAYOR REPORTS

Mayor Landcastle stated that the City will accept chipping material at Bender Park at an upcoming date to be announced.

COUNCIL REPORTS

Councilmember Jensen stated that he would welcome any help in taking down holiday decorations this Saturday morning at 9 a.m.

ADJOURNMENT

There being no further scheduled City business, the meeting was adjourned at 9:12 p.m.

ATTEST:

Jerry Landcastle, Mayor

Linda Knutson, City Clerk

Attachment A:

**MINUTES
Planning and Judicial Committee Meeting
Held Wednesday, December 14, 2005
City Hall Conference Room
11:00 a.m.**

COMMITTEE: Susan Cole
ADMIN: Greg Young, Bob Cecile, Michael Jones, Linda Knutson

WHISKEY CREEK PRELIMINARY PLAT

Associate Planner Michael Jones reviewed that the applicant proposes a Preliminary Plat to subdivide approximately 17.5 acres of land located in the RM 1.5 (Residential Multi-Family) zone into 55 single-family lots and two open space tracts. The applicant proposes to develop the plat in 2 Phases to begin generally in summer of 2006 and 2007. The project includes the construction of interior streets, two wetponds, and open space areas where wetland mitigation will occur. This area was recently rezoned from Highway Commercial.

The project was heard by the Hearings Examiner during a public hearing on December 6, 2005. *The Hearings Examiner recommended approval of the preliminary plat.* The Hearings Examiners recommendation is attached, as is the staff report prepared for the Hearings Examiner meeting. The Hearings Examiner's recommendation is subject to the staff-recommended conditions of approval with the Hearing Examiner's recommendation to **delete one condition from the Staff recommended Conditions of Approval:** *"A conservation easement, acceptable to the City, which establishes perpetual responsibility for monitoring, protection, and maintenance shall be recorded on all on-site and off-site wetlands, buffers, and mitigation areas associated with this development prior to or in conjunction with recording of the Final Plat. The provisions of the easement agreement shall protect all critical areas from future development in*

accordance with Chapter 16.08.270(F) Ferndale Municipal Code. A note to this effect shall be placed on the revised Preliminary Plat. "

The applicant held that this area should be used to mitigate future development in this watershed, and that this condition was not necessary. The Hearings Examiner agreed. Also discussed was whether or not a stub street was necessary for this development at this time.

The Committee recommends forwarding this to the full Council for consideration of approval of the Whiskey Creek Preliminary Plat as determined by the Hearings Examiner's Conclusions of Law, Findings of Fact, and Conditions of Approval as outlined in his report.

LATECOMERS AGREEMENTS – RURAL AND SUNSET

Public Works Director Bob Cecile presented two separate draft latecomer agreements intended to recover City funds used to construct roadway, storm sewer, sanitary sewer and waterline improvements along Rural and Sunset Avenues from property owners who benefited from those improvements. Because the City did receive federal grant funds for this project, it's important to note that the City is proposing to recover only a very small portion (approximately 20%) of the total project cost. This proposed recovery amount represents project costs paid directly by the City of Ferndale.

Because the statutory authority for recovering roadway and storm sewer improvement costs vary from the state statute regarding sanitary sewer and waterline costs, two separate agreements have been drafted to meet individual requirements governing each. The City is eligible for reimbursement of up to a total of \$110,265.86 from properties obligated under the proposed street and stormwater agreement, and \$66,702.71 from properties obligated under the proposed water and sewer agreement

Not all of the parcels along Rural and Sunset have been obligated under the proposed agreements, because some property owners, prior to the start of construction on this project, entered into participation agreements with the City. These property owners paid a portion of the estimated construction costs up front, with the remainder of the improvement costs due after project-completion. The City has invoiced and received payment from these property owners. Properties subject to participation agreements are listed in grey in the attached table. Those subject to the latecomer agreements noted in bold on the table and are shaded on the accompanying map.

Letters have been sent via certified mail to the property owners who will be impacted by the adoption of these agreements. The letter explained the City's intent to establish latecomer agreements to recover a portion of the costs of construction not paid for under the Rural Economic Vitality (REV) grant, and explained that property owners would have the opportunity to address City Council at the hearing scheduled for January 3, 2006. A copy of that letter has been included in your packet. Those mailings also included copies of the agreements, as well as a handout generally explaining latecomer agreements.

This will move forward as a Public Hearing at the next regular Council meeting.